

J. THOMAS LEWIS

IBLA 80-826

Decided October 14, 1980

Appeal from decision of the Montana State Office, Bureau of Land Management, dismissing protest with respect to oil and gas lease M 42687 (ND).

Affirmed.

1. Oil and Gas Leases: Applications: Generally--Oil and Gas Leases: Stipulations

Where the Bureau of Land Management requests within 30 days the execution of special stipulations prepared by the Forest Service for acquired lands embraced in a noncompetitive oil and gas lease offer, it may properly reject the lease offer when the special stipulations are not executed and submitted within the 30 days.

APPEARANCES: J. Thomas Lewis, pro se.

OPINION BY ADMINISTRATIVE JUDGE FISHMAN

J. Thomas Lewis appeals from a decision dated July 14, 1980, by the Montana State Office, Bureau of Land Management (BLM), dismissing his protest concerning oil and gas lease M 42687 (ND).

Appellant's offer for parcel No. 328, serialized M 42687 (ND) (acquired), was drawn first in the simultaneous oil and gas redrawing held March 14, 1980. By decision dated April 25, 1980, BLM advised appellant that his signature would be required on enclosed special stipulations before the lease could issue. The Forest Service stipulations, applicable to lands within the Custer National Forest, relate to surface occupancy, protection, and reclamation. The April 25 decision allowed appellant 30 days to sign and return the stipulations.

By letter dated July 1, 1980, BLM advised appellant that since he had not signed and returned the stipulations his lease offer was automatically rejected.

In a letter dated July 7, 1980, and received by BLM on July 10, appellant wrote that he had "executed and returned" all required documents. In a further letter, also dated July 7, appellant advised BLM that "the stipulations were executed and returned in the same envelope with my check in the amount of \$319 and other required materials." Appellant enclosed a certified return receipt.

In his statement of reasons appellant contends that he fully complied with applicable regulations and that the imposition of a 30-day time limit within which to sign and return special stipulations is beyond BLM's authority. Appellant further states:

I am perfectly willing to execute the lease and whatever stipulations are contained therein or therewith when such are presented in proper form for execution. I call your attention to the fact that the Notice of Lands Available for Oil and Gas Filings dated December 18, 1978 \* \* \* makes no reference whatsoever to any "30 day" time period within with the Special Stipulation was to be executed.

Appellant also asserts 1/ that the stipulation form in question, MSO 3100-36, was not listed in the lease drawing announcement as a stipulation which would be required.

[1] Execution of the special stipulations prepared by the Forest Service for the acquired lands embraced in appellant's oil and gas lease offer was mandatory. Hansen Brothers, 42 IBLA 40 (1979); Sallie B. Sanford, 22 IBLA 289 (1975); 43 CFR 3109.3-1. Although the "Notice of Lands Available For Oil and Gas Filings" did not indicate that the lands were subject to stipulation form MSO 3100-36, it is within the authority of BLM to add additional requirements in the public interest. Appellant has not shown any reason why the stipulation form is inappropriate. Although appellant stated in his July 7 letter that he executed and returned the stipulations, BLM has no record that they were ever received. Appellant's return receipt does not describe the article mailed, and BLM's July 1 letter indicated that those documents which appellant did send in were sent in two separate mailings, not in one envelope as appellant has alleged. In order to be filed, a document must be delivered to and received by the proper office.

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1/ The record indicates that the posted notice of lands available shows that the special stipulations 1, 2, and 6 of the "Little Missouri Grasslands" would be required for parcel MT 328, the lands in issue.

43 CFR 1821.2-2(f). In any case, appellant in his statement of reasons and letter of September 4, 1980, 2/ no longer claims to have signed and returned the stipulations. Instead he indicates his willingness to do so. However, appellant's failure to sign and return the special stipulations within the allotted 30 days properly resulted in the rejection of his lease offer.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

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Frederick Fishman  
Administrative Judge

We concur:

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Douglas E. Henriques  
Administrative Judge

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Joseph W. Goss  
Administrative Judge

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2/ In that letter, appellant stated:

"Your letter of August 4, 1980 recites that only one copy of the stipulation was sent to me with your transmittal of April 25. Since I have one copy of the stipulation in my file, I can only assume that I did not in fact execute the stipulation and return it to your office. I suppose that I became confused by the rather substantial amount of paper that was directed my way and so was guilty of what I suggest is an excusable oversight."

